

**RULES
OF
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
BUREAU OF ENVIRONMENT
DIVISION OF AIR POLLUTION CONTROL**

**CHAPTER 1200-3-4
OPEN BURNING**

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1200-3-4-.01 PURPOSE

It is the purpose of this chapter to establish controls on open burning so as to prevent undesirable levels of air contaminants in the atmosphere.

Authority: T.C.A. §§68-25-105 and 4-5-202. **Administrative History:** Original rule certified June 7, 1974. Amendment filed January 10, 1977; effective February 9, 1977. Amendment filed September 21, 1988; effective November 6, 1988.

1200-3-4-.02 DEFINITIONS.

- (1) As used in this chapter, all terms not defined herein shall have the meaning given them in chapter 1200-3-2.
 - (a) “Air Curtain Destructor or Air Curtain Incinerator” is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber with vertical walls in such a manner as to maintain a curtain of air over the surface of the burn chamber and a recirculating motion of air under the curtain. The use of an air curtain destructor or air curtain incinerator is considered controlled open burning subject to opacity requirements as stated elsewhere.
 - (b) “Air Pollution Emergency Episode” is defined as air pollution alerts, warnings, or emergencies declared by the Tennessee Division of Air Pollution Control during adverse air dispersion conditions that may result in harm to public health or welfare.
 - (c) “Natural Disaster” is defined as any event commonly referred to as an “Act of God” and includes but is not limited to the following weather related or naturally occurring categories of events: tornadoes, hail and wind storms, snow or ice storms, flooding, and earthquakes.
 - (d) “Open Burning” is the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack.
 - (e) “Person” is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, an agency, authority, commission, or department of the United States government, or of the State of Tennessee government; or any other legal entity, or their legal representative, agent, or assigns.
 - (f) “Registered Sanitary Landfill” is defined as one approved by the Tennessee Department of Environment and Conservation, Division of Solid Waste Management, to which a registration number has been assigned.

(Rule 1200-3-4-.02, continued)

- (g) “Wood Waste” is defined as any product which has not lost its basic character as wood, such as bark, sawdust, chips and chemically untreated lumber whose “disposition” by open burning is to solely get rid of or destroy.

Authority: T.C.A. §§68-25-105, 68-201-101 et seq., and 4-5-202. **Administrative History:** Original rule certified June 7, 1974. Amendment filed January 10, 1977; effective February 9, 1977. Amendment filed February 5, 1979; effective March 21, 1979. Amendment filed September 21, 1988; effective November 6, 1988. Amendment filed May 17, 1990; effective July 1, 1990. Amendment filed June 26, 2001; effective September 7, 2001. Amendment filed January 17, 2003; effective April 1, 2003.

1200-3-4-.03 OPEN BURNING PROHIBITED.

- (1) No person shall cause, suffer, allow, or permit open burning except as specifically exempted by Rule 1200-3-4-.04 EXCEPTIONS TO PROHIBITION.
- (2) Repealed.
- (3) Repealed.
- (4) The open burning of tires and other rubber products, vinyl shingles and siding, other plastics, asphalt shingles and other asphalt roofing materials, and/or asbestos containing materials is expressly prohibited, and such materials shall not be included in any open burning conducted under the provisions of Rule 1200-3-4-.04 EXCEPTIONS TO PROHIBITION.
- (5) Repealed.
- (6) Notwithstanding provisions in rule 1200-3-4-.04 below, the owner or operator of an air curtain incinerator subject to the standards and requirements of a New Source Performance Standard or the provisions of rule 1200-3-6-.06 shall satisfy those standards and requirements and any requirements that evolve from being subject to those standards and requirements, e.g., major source permitting. This qualification to the exceptions stated in rule 1200-3-4-.04 below shall not apply with regard to the burning of wood or wood waste, as defined in Paragraph 1200-3-6-.05(3) and Rule 1200-3-4-.02, respectively, solely for the disposition of such wood or wood waste. Therefore, the burning of wood or wood waste solely for the disposition of such wood or wood waste shall continue to be treated as exempt from regulation under this Chapter 1200-3-4 and shall not be subject to any standards or requirements of a New Source Performance Standard or the provisions of rule 1200-3-6-.06.

Authority: T.C.A. §§68-25-104, 68-201-101 et seq., and 4-5-202. **Administrative History:** Original rule certified June 7, 1974. Amendment filed January 10, 1977; effective February 9, 1977. Amendment filed September 21, 1988; effective November 6, 1988. Amendment filed March 5, 1993; effective April 19, 1993. Amendment filed November 22, 1993; effective February 5, 1994. Amendment filed April 7, 1995; effective June 21, 1995. Amendment filed June 26, 2001; effective September 7, 2001. Amendment filed July 9, 2001; effective September 22, 2001. Amendment filed January 17, 2003; effective April 1, 2003.

1200-3-4-.04 EXCEPTIONS TO PROHIBITION.

- (1) Open burning, as listed below, may be conducted subject to specified limitations. This grant of exception shall in no way relieve the person responsible for such burning from the consequences, damages, injuries, or claims resulting from such burning.
 - (a) Repealed.
 - (b) Fires used for cooking of food or for ceremonial, recreational or comfort-heating purposes, including barbecues, campfires, and outdoor fireplaces. This exception does not include commercial food preparation facilities and their operation.

(Rule 1200-3-4-.04, continued)

- (c) Fires set by or at the direction of responsible fire control persons solely for training purposes: such as for fire source training at fire academies or for local fire department training. However, routine demolition of structures via supervised open burning by responsible fire control persons will not be considered fire training. Additionally, the person responsible for such burning, unless conducted at a recognized fire training academy, must certify compliance with the following requirements by written statement. The certification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least ten (10) working days prior to commencing the burn:
 - 1. The open burning is being conducted solely for fire training purposes.
 - 2. All vinyl siding, carpet, vinyl flooring, asphalt roofing materials, and any other materials expressly prohibited in rule 1200-3-4-.03, have been removed. However, the provisions of 1200-3-4-.03(4) as it pertains solely to “other rubber products” and “other plastics” are waived for incidental plastic or rubber materials which are an integral part of a structure used for fire training, such as plastic plumbing, fixtures, and conduit; electrical wiring insulation, connections, switches, and fixtures; interior trim; glues and resins in manufactured wood products; and vinyl window and door frames. Sheathing, decking, roofing, exterior siding and trim, and structural load-bearing members whose composition is primarily rubber or plastics are not considered incidental.
 - 3. All regulated asbestos containing materials have been removed in accordance with rule 1200-3-11-.02 (2)(d) 3 (x).
 - 4. A traffic hazard will not be caused by the air contaminants generated by the fire training.
- (d) Fires consisting solely of vegetation grown on the property of the burn site. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils.
- (e) Fires disposing of “wood waste” solely for the disposition of such wood waste as provided in T.C.A. §68-201-115(c). Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils. Plant life of a herbaceous nature, such as leaves, whether attached, fallen, and/or collected, evergreen needles, and grasses, are not considered “wood waste”. Additionally, manufactured lumber products, such as plywood, fiberboard, particleboard, and paneling, are not considered “wood waste”. Painted or artificially stained wood is not considered “wood waste”.
- (f) Fires for the burning of bodies of dead animals, including poultry, in accordance with T.C.A. §§44-2-102, and where no other safe and/or practical disposal method exists.
- (g) Smokeless flares or safety flares for the combustion of waste gases, provided other remaining applicable conditions of these regulations are met.
- (h) Such other open burning as may be approved by the Tennessee Air Pollution Control Board where there is no other practical, safe, and/or lawful method of disposal. Documentation demonstrating why the general open burning regulations cannot be met must be submitted.
- (i) Fires set at the direction of law enforcement agencies or courts for the purpose of destruction of controlled substances and legend drugs seized as contraband. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils.
- (j) Open Burning of the following materials, and when conducted in conformity with the following conditions: non-radioactive, explosive, shock sensitive, chemically unstable, or highly reactive wastes, packaging, or contaminated or potentially contaminated combustible materials which

(Rule 1200-3-4-.04, continued)

cannot be safely disposed of by other methods; any vegetation; manufactured lumber products not chemically treated to prevent insect or rot damage, such as plywood, fiberboard, and paneling; and uncoated paper and uncoated cardboard, both of which constitute less than ten (10) percent of the total weight of material burned on a daily basis. Additionally, the person responsible for such burning must certify compliance with the distance requirements by written statement. The certification must include the types and amounts of materials projected to be burned, a statement explaining why alternate disposal methods cannot be utilized, and must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least ten (10) working days prior to commencing the burn:

1. The site of such burning is not nearer than one-half mile to an airport, hospital, nursing home, school, Federal or State highway, national reservation, national or state park, wildlife area, national or state forest, and/or residences except such residences as may be located on the same property as the burning site.
 2. The site of such burning is not nearer than five hundred (500) feet to any registered sanitary landfill, or other land disposal sites for combustible solid waste, or other similar facilities.
 3. As a general rule, open burning will only be conducted between the hours of 9:00 a.m. and 3:30 p.m.
 4. All material to be burned must be dry and in all other respects be in a state to sustain good combustion.
 5. No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn.
 6. Open burning must be conducted when ambient conditions are such that good dispersion of combustion products will result.
 7. For open burning exceeding one month in duration, alternate disposal methods must be investigated and a written report of progress must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center by February 1 of each year.
 8. All changes in types of, or increase in quantities of materials burned must be preceded by notification. The notification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least ten (10) working days prior to commencing the change in the burn.
- (k) Open burning of the following materials, when an air curtain destructor is used, and when conducted in conformity with the following conditions: non-radioactive, explosive, shock sensitive, chemically unstable, or highly reactive wastes, packaging, or contaminated or potentially contaminated combustible materials which cannot be safely disposed of by other methods; any vegetation; manufactured lumber products not chemically treated to prevent insect or rot damage, such as plywood, fiberboard, and paneling; and uncoated paper and uncoated cardboard, both of which constitute less than ten (10) percent of the total weight of material burned on a daily basis. Additionally, the person responsible for such burning must certify compliance with the distance requirements by written statement. The certification must include the types and amounts of materials projected to be burned, a statement explaining why alternate disposal methods cannot be utilized, and must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least ten (10) working days prior to commencing the burn:

(Rule 1200-3-4-.04, continued)

1. The open burning site must be at least five hundred (500) feet from any Federal or State highways.
 2. The open burning site must be at least one thousand (1,000) feet from any school, national or state park, national reservation, national or state forest, wildlife area, and/or residence not on the same property as the air curtain destructor.
 3. The open burning site must be at least one-half (1/2) mile from any airport, nursing home, or hospital.
 4. The plume from the air curtain destructor must meet the visible emission standards specified in rule 1200-3-5-.01(1); however, for certain materials the Technical Secretary may allow one start-up period in excess of the standard, per day, not to exceed 20 minutes in 24 hours.
 5. All material to be burned must be dry and in other respects be in a state to sustain good combustion.
 6. No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn.
 7. Open burning must be conducted when ambient conditions are such that good dispersion of combustion products will result.
 8. For open burning exceeding one month in duration, alternate disposal methods must be investigated and a written report of progress must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center by February 1 of each year.
 9. All changes in types of, or increase in quantities of materials burned must be preceded by notification. The notification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least ten (10) working days prior to commencing the change in the burn.
- (l) Open burning of materials resulting from a natural disaster, and when conducted in conformity with the following conditions:
1. Fires disposing of structural and household materials and vegetation are allowed only when those structures or materials are destroyed or severely damaged by natural disaster. Input from Emergency Management personnel may be requested in determining qualification with this criteria. The provisions of 1200-3-4-.03(4) pertaining to structural and household materials may be waived if the persons seeking to open burn under this provision make a reasonable effort to remove all expressly prohibited material from the structural remains before ignition. The Technical Secretary reserves the right to inspect the proposed materials to be burned before ignition. The alternative use of chippers and grinders, landfilling, or on-site burial of waste in lieu of burning, if lawful, is encouraged.
 2. If a governmental collective burn site for disposing of structural and household materials and vegetation damaged by a natural disaster is planned, the person responsible for such burning must notify the Division of Air Pollution of the proposed location. The notification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Assistance Center at least three (3) days prior to commencing the burn. The Division may request that alternate sites be identified to minimize impact to air quality. The alternative use of chippers and grinders in lieu of burning is encouraged.

(Rule 1200-3-4-.04, continued)

3. A traffic hazard will not be caused by the air contaminants generated by the fire.
 4. No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn.
 5. Open burning conducted under this exception is only allowed where no other safe and/or practical means of disposal is available.
- (2) The Technical Secretary reserves the right to require a person to cease or limit open burning if emissions from the fires are deemed by the Technical Secretary or his designee to jeopardize public health or welfare, create a public nuisance or safety hazard, create a potential safety hazard, or interfere with the attainment or maintenance of the air quality standards.
- (3) Any exception to the open burning prohibition granted by this Chapter does not relieve any person of the responsibility to obtain a permit required by any other agency, or of complying with other applicable requirements, ordinances, or restrictions. Particular attention is directed to T.C.A. §39-14-306.
- (4) Failure to adhere to any applicable provision or condition of an exception to the open burning prohibition shall be construed as a violation of this Chapter and is subject to applicable provisions of the rules and statutes of the Tennessee Department of Environment and Conservation, Division of Air Pollution Control and such corrective/punitive measures that may be deemed appropriate by the Technical Secretary of the Tennessee Air Pollution Control Board.

Authority: T.C.A. §§68-25-105, 68-201-101 et seq., and 4-5-202. **Administrative History:** Original rule certified June 7, 1974. Amendment filed January 10, 1977; effective February 9, 1977. Amendment filed February 5, 1979; effective March 21, 1979. Amendment filed May 7, 1979; effective June 21, 1979. Amendment filed September 21, 1988; effective November 6, 1988. Amendment filed May 17, 1990; effective July 1, 1990. Amendment filed March 5, 1993; effective April 19, 1993. Amendment filed April 7, 1995; effective June 21, 1995. Amendment filed June 26, 2001; effective September 7, 2001. Amendment filed March 25, 2003; effective June 8, 2003.

1200-3-4-.05 REPEALED.

Authority: T.C.A. §§68-25-105, 68-201-101 et seq., and 4-5-202. **Administrative History:** Original rule filed September 21, 1988; effective November 6, 1988. Amendment filed April 18, 1994; effective July 2, 1994. Amendment filed April 7, 1995; effective June 21, 1995. Amendment filed June 26, 2001; effective September 7, 2001.